

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JASON SIGERS,
Plaintiff,

v.

MICHIGAN DEPARTMENT OF
CORRECTIONS,
Defendant.

Case No. 08-13298
Honorable Patrick J. Duggan

OPINION AND ORDER

At a session of said Court, held in the U.S.
District Courthouse, Eastern District
of Michigan, on December 16, 2008.

PRESENT: THE HONORABLE PATRICK J. DUGGAN
U.S. DISTRICT COURT JUDGE

On July 31, 2008, Plaintiff initiated this lawsuit against Defendant Michigan Department of Corrections (“MDOC”). MDOC responded to Plaintiff’s complaint with a motion to dismiss, contending that it is immune from Plaintiff’s claims pursuant to the Eleventh Amendment. Plaintiff subsequently filed a motion to amend his complaint with a proposed amended complaint that identified several individual defendants in lieu of MDOC. This Court referred MDOC’s motion to dismiss to Magistrate Judge Michael Hluchaniuk for report and recommendation pursuant to 28 U.S.C. § 636(b)(1)(B). The Court also referred Plaintiff’s motion to amend the complaint to Magistrate Judge Hluchaniuk for hearing and determination pursuant to 28 U.S.C. § 636(b)(1)(A).

On October 31, 2008, Magistrate Judge Hluchaniuk issued an order granting

Plaintiff's motion to amend his complaint.¹ On the same date, the magistrate judge filed his Report and Recommendation (R&R) recommending that this Court grant MDOC's motion to dismiss. Magistrate Judge Hluchaniuk concludes in his R&R that, in light of the fact that Plaintiff no longer identifies MDOC as a defendant in his proposed amended complaint, MDOC's motion to dismiss is moot. At the conclusion of the R&R, Magistrate Judge Hluchaniuk advises the parties that they may object to and seek review of the R&R within ten days of service upon them. (R&R at 3.) He further specifically advises the parties that "[f]ailure to file specific objections constitutes a waiver of any further right of appeal." (*Id.*) Neither party filed objections to the R&R.

The Court has carefully reviewed the R&R and concurs with the conclusions reached by Magistrate Judge Hluchaniuk.

Accordingly,

IT IS ORDERED, that MDOC's motion to dismiss is **DENIED AS MOOT**.

s/PATRICK J. DUGGAN
UNITED STATES DISTRICT JUDGE

Copies to:
Magistrate Judge Michael Hluchaniuk

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Assistant Attorney General Julia R. Bell

¹The Court is accepting for filing the proposed amended complaint attached to Plaintiff's motion.